

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS

**IN RE: PHARMACEUTICAL INDUSTRY AVERAGE
WHOLESALE PRICE LITIGATION**

MDL No. 1456
C.A. No. 01-12257-PBS

THIS DOCUMENT RELATES TO:
International Union of Operating Engineers,
Local No. 68 Welfare Fund v. AstraZeneca PLC, *et al.*

Judge Patti B. Saris

**NOTICE OF OPPOSITION TO PROPOSED ORDER
PRESENTED BY ASTRAZENECA PHARMACEUTICALS LP
RESPECTING THE COURT'S JANUARY 27, 2006 RULINGS,
AND SUBMISSION OF ALTERNATIVE FORM OF ORDER**

Plaintiff, International Union of Operating Engineers, Local No. 68 Welfare Fund, hereby opposes the Proposed Order submitted by AstraZeneca Pharmaceuticals LP respecting the Court's rulings on January 27, 2006 and submits an alternative form of Order that more accurately reflects this Court's decisions.

As an initial matter, since the Court issued an Order respecting Dr. Hopkins' Amended Objections, there is no need for any further Order respecting same, particularly as worded by counsel for AstraZeneca. Indeed, in addition to expressly allowing for Dr. Hopkins' counsel to submit a Declaration in lieu of a deposition if agreed upon by the parties, contrary to the form of Order submitted by AstraZeneca, the Court only admonished respecting documents withheld pursuant to "settlement privilege." It did not prohibit Dr. Hopkins from continuing properly to withhold documents based upon other privileges. Further, the Court did not set the dates set forth in AstraZeneca's Proposed Order.

AstraZeneca's proposed Order at ¶ 3 far overstates what this Court has determined. Particularly, the proposed paragraph states that plaintiff is foreclosed from any claim of privilege. This proposed provision is undermined by the fact that the Court also directed plaintiff to produce a privilege log. Plaintiff submits that AstraZeneca's Motion to Compel the Production of Documents by Plaintiff, Local 68 was far broader than what was presented to and ruled upon by the Court, and that an Order stating AstraZeneca's Motion to Compel the Production of Documents by Plaintiff is hereby GRANTED, would be inappropriate. As indicated in open Court, plaintiff intends to produce a privilege log and additional documents (beyond those already produced) respecting communications with Drs. Antoun, Hopkins and Berkman and their counsel.

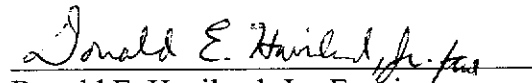
Therefore, plaintiff hereby submits an alternative proposed order which plaintiff respectfully submits should be entered.

Date: January 31, 2006

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ATTORNEYS FOR PLAINTIFF AND THE CLASS

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ORDER

1. If counsel do not agree that a Declaration from counsel for Stanley C. Hopkins, M.D. will suffice, counsel for Dr. Hopkins, Jack Fernandez, Esquire, shall appear for a deposition forthwith. Dr. Hopkins also shall produce additional documents previously withheld based solely upon settlement privilege.
2. Plaintiff, International Union of Operating Engineers, Local No. 68 Welfare Fund, shall produce additional documents and a privilege log respecting communications between counsel for plaintiff and counsel for Drs. Hopkins, Antoun and Berkman.
3. Plaintiff and AstraZeneca shall file final, simultaneous submissions no longer than five (5) pages in length on February 10, 2006 to complete the briefing on Plaintiff's Motion for Remand. Any attachments thereto shall be reasonable in length.

Dated: _____, 2006

HONORABLE PATTI B. SARIS
UNITED STATES DISTRICT JUDGE